



City of  
**Peterborough**

## COMMITTEE OF ADJUSTMENT

HEARING DATE: April 19, 2011

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**Staff Comments Re: Files: A06/11, B03/11, A07/11, A08/11, A09/11, B04/11 & B05/11, B06/11, A10/11 & A11/11**

### **A06/11 – 73 Lansdowne Street West - Timothy Whalen**

This application was adjourned by the Committee from its meeting of March 1 /11 to permit a further site visit to acquire more information on the use and finish of the Quonset building on the property as it may be considered as an accessory building.

City staff and members of the Committee visited the site on April 12/11 to enter the Quonset building and consider its purpose within the context of the property.

After visiting the property, staff would once again ask the Committee to give careful consideration to the by-law's definition of an "accessory building" in weighing the variances requested in relation to the proposed use and development of the property.

The owner would like to establish a third residential unit within the dwelling on the property and is therefore requesting the following variances regarding the proposed development and use of the property:

- i. reduce the minimum required lot width per dwelling unit from 6 metres to 5.44 metres, and
- ii. reduce the minimum distance of a driveway from a lot line from 1.5 metres to 0.6 metres.

Considering the proposed development and use of the property for three dwelling units, staff would like to support variance number one to allow the third unit. The location and questionable purpose of the Quonset building on the property remains as an issue presenting a challenge to providing on-site parking appropriately.

Lansdowne Street West is an arterial roadway. The width of the road allowance in front of the subject property is 20 metres while the Official Plan would require it to be up to 36 metres.

Referring to the plan attached as Exhibit A, staff cannot support a variance that would allow development that would rely on parking spaces located in the front yard of a dwelling that could be subject to future road widening requirements. The proposal to locate two parking spaces in the front yard is not appropriate. All parking spaces should be located to the rear of the dwelling.

Staff would support the third unit on the property recommending the following:

- 1) That the Committee grant relief from the minimum lot width per unit as requested,
- 2) That the Committee grant relief from the parking regulations of the by-law to require only four parking spaces on the property to support the use as a three unit dwelling,
- 3) That no building permit to establish a third unit on the property would be issued until:
  - i) No less than four motor vehicle parking spaces, as defined by the by-law, are established to the rear of the dwelling,
  - ii) The owner enter into a development agreement to establish and maintain soft landscaping between the front of the building and the street line designed to include a barrier to prevent motor vehicle parking in front of the building to the satisfaction of the Planner of Urban Design,
  - iii) Either removal or conversion of the Quonset building for use as an “accessory building” to the satisfaction of the building division. This will require but not be limited to a substantial effort toward disconnecting the sanitary sewer service to the building and conversion of the front part of the building to a garage to accommodate parking to support the use or reduction of its size to make parking more readily available on the site.
  - iv) payment of a parks levy for the additional apartment unit in an amount to be determined by the City’s Parks Levy Review Committee.

Should the Committee choose to grant the variance to allow the third unit with conditions recommended, Staff would further recommend that the decision be subject to a 12 to 18 month time limit for fulfilling the requirements of the decision, failing which the decision will lapse and be null and void.

### **A10/11 – 320 King Street - Sean Paul Cowling**

The owner has constructed a 2 storey, frame garage on the property and finished the upper level of the dwelling as part of the residential use of the property. In addition the proponent has constructed a covered entrance to the basement from the rear yard and a fire escape platform from the third storey of the building as illustrated on the property survey attached as Exhibit B. The proponent is before the Committee requesting the following variances to recognize the development and use of buildings on the property for four dwelling units:

Increase the maximum lot coverage by an accessory building from 10% to 15.2%;

- 1) Increase the maximum permitted height of an accessory building from 4.3 metres to 5.6 metres;
- 2) Reduce the minimum building setback of a fire escape structure from the third storey of the building from 2.4 metres to 0.7 metres in relation to the west side lot line;
- 3) Reduce the minimum lot area per dwelling unit from 230 sq metres to 55.5 sq metres;

- 4) Reduce the minimum lot width per dwelling unit from 6 metres to 1.8 metres;
- 5) Reduce the minimum building setback from the side lot lines from 2.4 metres to 0.74 metres regarding the garage and to 0.74 metres regarding the main dwelling on the property,
- 6) Increase the maximum building coverage of the lot from 35% to 45%; and
- 7) Reduce the minimum number of parking spaces required from 6 to 1.

In August 2009, it was noted that construction on the property had commenced without a building permit. Notwithstanding a stop work order being issued, construction continued on the property resulting in the structure that exists today.

The additions include:

- 1) Shed dormers on both sides of the attic roof of the main building,
- 2) Construction of a fire escape structure from the attic or third storey of the building
- 3) Construction of a covered access to the basement from the rear of the building
- 4) Construction of a two storey detached building in place of the garage that appears to be designed as a dwelling.

The construction has resulted in the requirement of this application before the Committee to determine if the development in relation to the zoning by-law and regulations described above may be supported as minor variances.

The Subject property is located mid block on a local street in the Central Area of the City Referring to the Plan attached as Exhibit B, the subject property is a narrow 7.4 metre (24.5 ft) wide by 29.5 metre (96.85 ft) deep lot zoned R.1, R.2, R.3, R.4 Residential District. According to municipal records, and considering the regulations of the zoning by-law, the subject property is legal-non conforming in size and the use of the building is recognized as a single unit dwelling with, perhaps, parking for a single motor vehicle in the rear yard, depending on the rights to a shared right of way over the adjacent property to the west.

While the property is designated as part of the Central Area, high density residential is not an expected use. The proponent is requesting variances that would permit the use as four dwelling units. Considering the size of the property, the use of the building for two dwelling units would be considered high density development at 90 units per hectare. That figure exceeds 75 units per hectare being the maximum range of medium density that would be permitted under the infill policies of the Official Plan. Four Units on the property would be a density of 184 units per ha -a level of density that is not anticipated or planned for in this area.

Staff visited the subject property and considered the established standard of property development in the neighbourhood. The subject property is located on the north side of King Street facing south. The property backs onto a parking lot associated with the Peterborough Clinic. While there are two and three unit dwellings across the street and in the vicinity, the building on the subject property before the additions were constructed was similar in size and character to a series of four single unit dwellings located on each

side of it along the north side of King Street. The two and three unit dwellings across the street are on larger lots oriented east and west. Staff have been contacted by neighbouring property owners indicating that they were opposed to the variances that would permit the development that has occurred and the proposed use of the property for any more units.

Considering the neighbourhood context, staff is of the opinion that variances listed as number three to six, requested to permit the use of the property for four dwelling units are not minor, would not maintain the intent of the Official Plan or the zoning of the property considering the density and building regulations of the R.3 or R.4 Residential zoning of the property. It is the opinion of staff that the variances if granted, would result in development not anticipated by the Official Plan or Zoning district and is considered inappropriate in the context of the use and apparent development of neighbouring properties. Staff is therefore recommending that the variances be denied.

Regarding the variance to parking, the property is located in the Central Area of the City. The City has a “cash-in-lieu of parking” policy to facilitate development in this area. The policy would allow the City to enter into an agreement with the developer to accept \$5,346.00 cash in lieu of each parking space required to support the development. To be consistent with the implementation of this policy, Staff could not support the variance to exempt the development from the required six parking spaces as requested.

Considering the first two variances requested to the size and height of the second building, the definition of the use of an accessory building states that it is “clearly incidental subordinate and exclusively devoted to a permitted use of the property”. The permitted use of the property is a single unit dwelling. Staff would suggest that the structure is not incidental or devoted in support of the permitted use but specifically constructed and designed with dimensions to accommodate more dwelling units on the property. Staff cannot support the variances as described and would recommend that they be denied.

### **B03/11 – 753 Pinewood Drive - Marilyn & Paul Instead**

Referring to the Plan attached as Exhibit C, the subject property is a 45.72 metre (150 ft) wide lot located on a local street that is 20 metres wide. The zoning of the property is R.1 1m, 2m residential that would permit a lot that would be no less than 15 metres wide.

Considering the zoning of the property Staff would support the owner’s proposal to convey the northerly 15.24 metres of the subject property to create a new lot that would conform with the zoning subject to the following conditions:

- 1) That the owner enter into a development agreement with the City to require that building plans be submitted for approval of the Planner of Urban Design to ensure compatibility of building design with the established standard of other buildings in the neighbourhood prior to the issuance of a building permit,
- 2) Production of a reference plan describing the property to be severed to the satisfaction of the Planner of Policy & Research.

- 3) Payment of a Parks Levy in the amount to be determined by the Parks Levy Review Committee, and
- 4) Payment of a Tree Levy in the amount of \$191.00.

**A07/11 – 400 Lansdowne Street East**  
**Counsel Willowcreek Limited/Counsel Real Estate**

The owner is requesting a variance to permit a temporary structure for the purpose of a seasonal garden centre on the property. While a variance had been granted to permit a temporary structure for the garden centre in the past (File A13/04) the proposed size and location of the garden centre on the property has changed resulting in the requirement of an additional variance to reduce the number of required parking spaces associated with the plaza site from 360 to 350 during the period of time when the garden centre is open.

Referring to the plan attached as Exhibit D, the proposed garden centre is to be located to the southwest corner of the property next to the McDonalds restaurant pad. The site plan statistics state that the plaza has a total gross leasable area of 5,505.6 sq. metres and provides 394 parking spaces on the site. According to the by-law, the plaza site must provide 276 parking spaces therefore there is a surplus of 118 spaces. While the garden centre area would occupy a rectangular area of 24 metres (80 ft) by 36 metres (120 ft) or 864 sq. metres, its' location would eliminate 46 parking spaces from the site and generate a demand for 24 parking spaces. Considering the surplus of parking on site there remains a surplus of 48 parking spaces on the property.

Staff considered the location of the garden centre in relation to access and egress to the site from public roadways and from a fire access perspective and would not object to the Committee granting a variance to permit temporary structures to occupy an area of the site of up to 864 square metres during the months of April to August provided that the site plan agreement is amended to illustrate the location of the garden centre as described and illustrated on the attached Exhibit D.

**A08/11 – 661 Lansdowne Street West & 769 Bordan Avenue**  
**Lansdowne Place Mall**

The owner is requesting a variance to permit a temporary structure for the purpose of a seasonal garden centre on the property. While a variance had been granted to permit a temporary structure for the garden centre in the past (File A11/09) the variance was granted temporarily pending the determination of whether the garden centre is located within the flood plain.

Staff considered the following issues concerning the proposal to establish the temporary garden centre on the site:

- 1) According to updated flood plain mapping for the area it has been determined that the proposed location of the garden centre is located within the flood plain of the Byersville Creek and could be subject to flood depths of between 0.3 metres and 0.7 metres. Section 3 of the Provincial Policy Statement states that development shall be directed away from and outside of areas affected by flood hazards. Under Part II of the PPS, it is stated that in respect to the exercise of any authority that

affects planning matters, Section 3 of the *Planning Act* required decisions to be “consistent with “policy statements issued under the Act. The application for a minor variance is required to be filed under the requirements of the *Planning Act* in order to issue a building permit for a temporary structure.

- 2) The response from Otonabee Conservation regarding this application was of non-support considering the proposed location of a garden centre within the flood plain.
- 3) Included in the City’s 2011 Capital Works Budget is money allocated to implement changes to the flood plain designed to reduce – possibly eliminate the flood depths that currently exist in the area.
- 4) Considering the site plan for the entire Lansdowne Place Mall (excluding Sears), it was determined that there is a surplus of 235 parking spaces on the site based on the required 2370 parking spaces and 2605 spaces being provided. It was determined that the garden centre compound occupies an area of 2100 sq metres of the parking lot as illustrated on Exhibit E, eliminating the availability of 81 parking spaces while generating a demand for 84 parking spaces. According to these figures there remains a surplus of 70 parking spaces on the site.
- 5) The proposed location of the Garden centre in the context of the site does not interfere with the flow of traffic in relation to access or egress to the site.

Considering the information on flood plain mapping, Staff cannot support the variance that would allow a temporary garden centre that may store fertilizer and other material in an area that may be subject to flooding as proposed.

#### **A09/11 – 530 Lansdowne Street East Darren & Nicole Henwood**

The subject property is a residential property located on Lansdowne Street East. While it is designated as residential according to the Official Plan, it is zoned as D.1 Development District. The owner would like to remove the detached single car garage on the property that is falling into disrepair and replace it with a new detached garage.

Considering the plan attached as Exhibit F, the following variances to the regulations of the D.1- Development District zoning are therefore requested:

- 1) Increase the maximum floor area that an accessory building may be increased from 10% to 125 %; and
- 2) Reduce the minimum building setback from the west side lot line from 3 metres (9.8 ft) to 1.2 metres (3.9 ft).

Staff visited the subject property, considered the established use being a single unit residential dwelling and the standard of development of the neighbouring properties in relation to an appropriate residential district zoning and is of the opinion that the variances requested are a reasonable, and fair approach to facilitating appropriate development of the property by allowing the construction of a accessory building on the property.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variances as described.

#### **B04/11 & B05/11 – 283, 285 & 289 Armour Rd. Brian, Michael, Fred & Wilma Preddy**

Referring to the plan attached as Exhibit G, the owner is proposing to re-delineate the lot lines of the two properties to create three newly defined lots. The southerly two lots would be 18 metres wide each conforming to the R.2 zoning of the properties for potential development of a duplex on each parcel. The third lot known as 289 Armour Road, would conform to the zoning regulations for development of a single unit dwelling.

According to the Official Plan, Armour Road is designated as a medium capacity arterial road with a required road width of 26 metres. The subject properties are designated residential and zoned R.1, R.2 Residential.

Staff is of the opinion that the proposed re-delineation of the properties would conform with the zoning of the properties and facilitate appropriate development in accordance with the expectations of the zoning applied to the property. Staff would not object to the Committee granting the consents for the conveyance of the northerly 1.81 metres of the property known municipally as 283 Armour Road to the owner of the property known municipally as 285 Armour Road provided that Section 50(5) of the *Planning Act* apply to any subsequent transaction involving the parcel.

Staff would also not object to the Committee granting the consent for the conveyance of the southerly 1.49 metres of the property known municipally as 289 Armour Road to the owner of the property known municipally as 285 Armour Road provided that Section 50(5) of the *Planning Act* apply to any subsequent transaction involving the parcel.

The decision should be conditional upon the owner conveying to the City free of encumbrances and at no cost to the City a 3 metre wide strip of land across the frontage of 283, 285 and 289 Armour Road for the purposed of future road widening.

**B06/11 – 749 Bethune Street - Jennifer and Simon Debues**

The subject property is a 38.1 metre (25 ft) wide property zoned R.1 residential located on a section of Bethune Street that is designated as a local street.

Considering the zoning of the property Staff would support the owner's proposal to convey the southerly 13.7 metres of the subject property as shown on the Plan attached as Exhibit H, to create a new lot that would conform to the zoning of the property, subject to the following conditions:

- 1) That the owner enter into a development agreement with the City to require that building plans be submitted for approval of the Planner of Urban Design to ensure compatibility of building design with the established standard of other buildings in the neighbourhood prior to the issuance of a building permit,
- 2) Production of a reference plan describing the property to be severed to the satisfaction of the Planner of Policy & Research.
- 3) Payment of a Parks Levy in the amount to be determined by the Parks Levy Review Committee, and
- 4) Payment of a Tree Levy in the amount of \$171.90.

**A11/11 – 255 McDonnel Street - 8805073 Ontario Ltd.**

The subject property is located in an area of the City Designated, according to the Official Plan as a Transitional Use Area. The property is located at the south east corner of Bethune Street and McDonnel Street and is zoned M.3.2 Industrial. McDonnel Street is a low capacity arterial street and this section of Bethune Street is designated as a collector street. It should also be noted that the property is located within a Special Policy Area in relation to the flood plain of Jackson Creek, so development would require approval from Otonabee Conservation.

The proponent is interested in raising the elevation and constructing a pitched roof on the 376 square metre building that exists on the west side of the property and constructing a 207.56 sq metre addition to south end of the building upon a foundation established on the property. A variance is therefore requested to reduce the minimum building setback from the centre line of McDonnel Street from 24.4 metres to 18.97 metres and from 19 metres to 12.5 metres in relation to Bethune Street.

The Transitional Use Policies require that attention be paid to development standards including compatible building design and effort toward minimizing the impact on adjacent residential uses through the provision of adequate parking, buffering, landscaping and setbacks.

Staff visited the site and considered the variance requested with respect to the proposal to increase the height of the roof of the building and reduce the minimum building setback from the centre line of the streets. To minimize the building massing and improve the compatibility of design with respect for adjacent residential properties, staff would recommend that the roof be of a cottage style design sloping to the street to minimize the massing in relation to the reduced setback. Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance to reduce the setback as described for the existing building provided that the design is altered to the cottage roof design.

Referring to the plan attached as Exhibit H, two buildings exist on the property. The easterly building appears to be used as an office. The 376 square meter industrial building located to the west side of the site is split in two. The north portion the building is used as an automobile repair establishment and the southerly portion as a contractor's establishment (tree removal service). There are a total of 18 parking spaces on the site to support the two buildings that exist.

Considering the use of the buildings on the property and what the by-law would require for parking spaces to support the use of the property, staff regards the development and use of the property as legal-non conforming. Considering the westerly building, if it was split in half, the auto shop would require 16 parking spaces and the contractor's establishment would require 2. In addition, there is still the easterly office building on the property. Considering the development and use of the property supported by only 18 parking spaces on the site, Staff cannot support the variance that would pertain to the proposed addition to the building. Should the Committee wish to consider the proposed addition further, Staff would require further detailed information on all of the uses of the property

including the proposed use of the addition in order to address parking requirements and site plan issues pertaining to vehicular access to the property.

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**Richard Straka**  
Planner Policy & Research

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**R. Waldron, C.E.T., CBCO**  
Manager, Building Division

*W.A. Beninger*

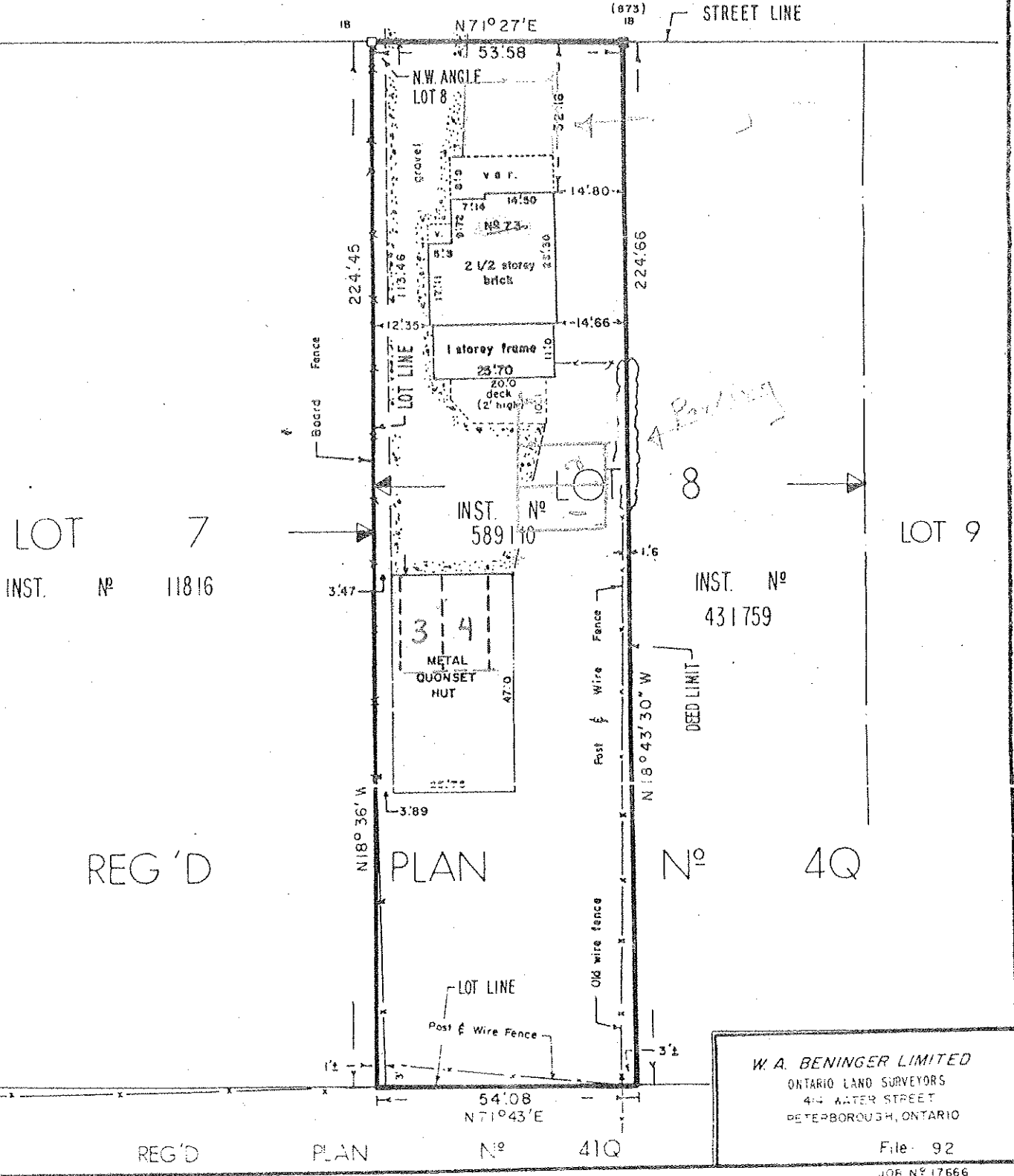
□ - DENOTES IRON BAR, PLANTED

■ - " " " " FOUND.

MEASUREMENTS ARE TAKEN TO CONCRETE FOUNDATION OF DWELLING.

**LANSDOWNE STREET**

( ROAD ALLOWANCE BETWEEN CONCESSIONS 11 AND 12 )



W. A. BENINGER LIMITED  
 ONTARIO LAND SURVEYORS  
 414 WATER STREET  
 PETERBOROUGH, ONTARIO  
 File 92  
 JOB No 17666

# LOT 14

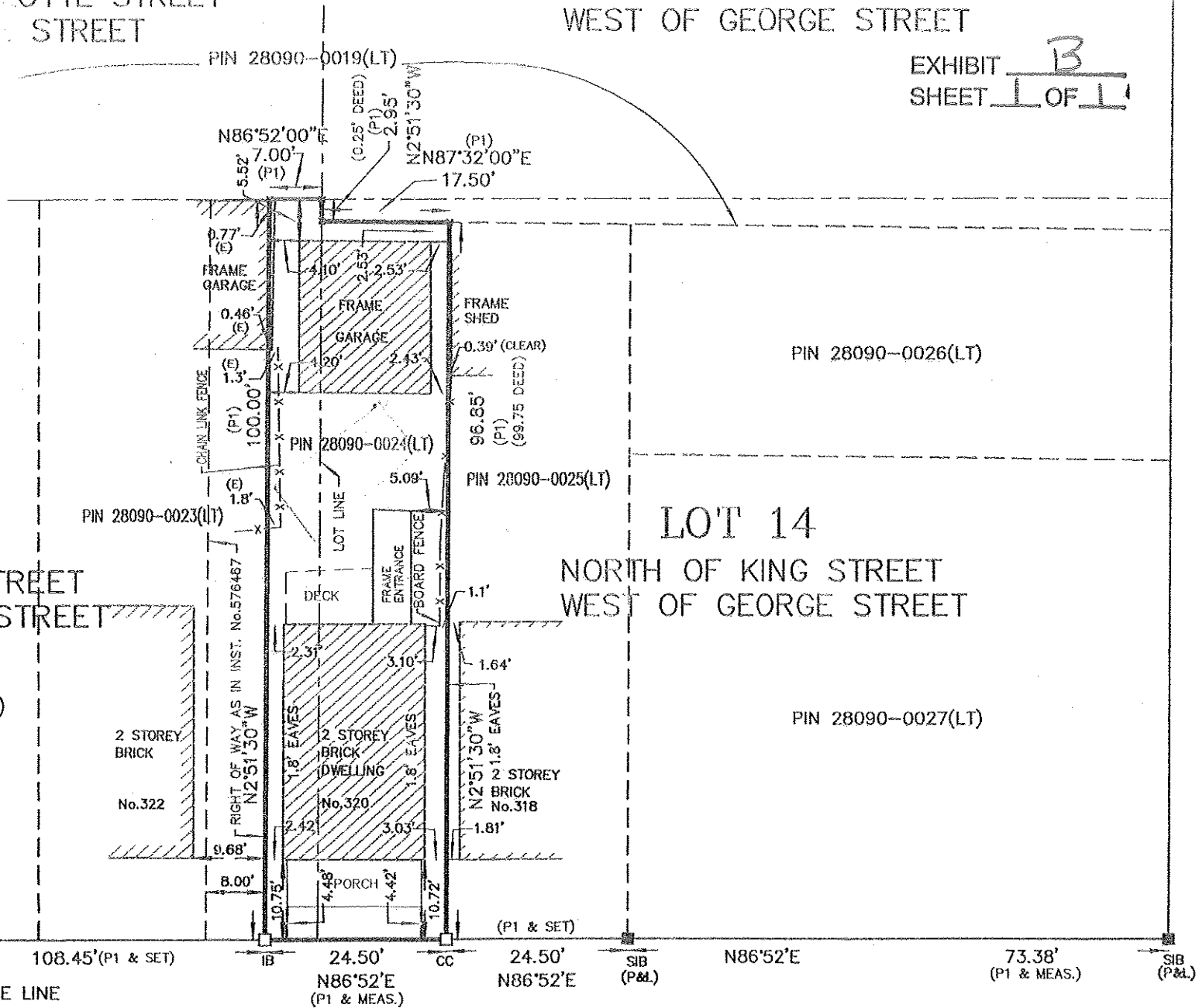
SOUTH OF CHARLOTTE STREET  
WEST OF GEORGE STREET

EXHIBIT B  
SHEET 1 OF 1

LOTTE STREET  
STREET

STREET  
STREET

LOT 14  
NORTH OF KING STREET  
WEST OF GEORGE STREET



PIN 28090-0198(LT)  
**KING STREET**

**LEGEND:**  
 DENOTES SURVEY MONUMENT FOUND  
 DENOTES SURVEY MONUMENT SET  
 DENOTES STANDARD IRON BAR  
 DENOTES IRON BAR  
 DENOTES CUT CROSS  
 WITNESS  
 DENOTES ENCROACHMENT

**NOTE:**  
 P1 DENOTES PLAN OF SURVEY BY PIERCE AND LYONS, O.L.S.  
 DATED: AUGUST 17, 1983  
 P2 DENOTES PLAN OF SURVEY BY ELLIOTT AND PARR, O.L.S.  
 DATED: 9 SEPTEMBER, 1988  
 DEED DENOTES INST. No.R576467

**SURVEYOR**  
 I CERTIFY THAT:  
 1. THIS SURVEY  
 WITH THE SU  
 REGULATIONS  
 2. THE SURVEY  
 18 FEBRUAR



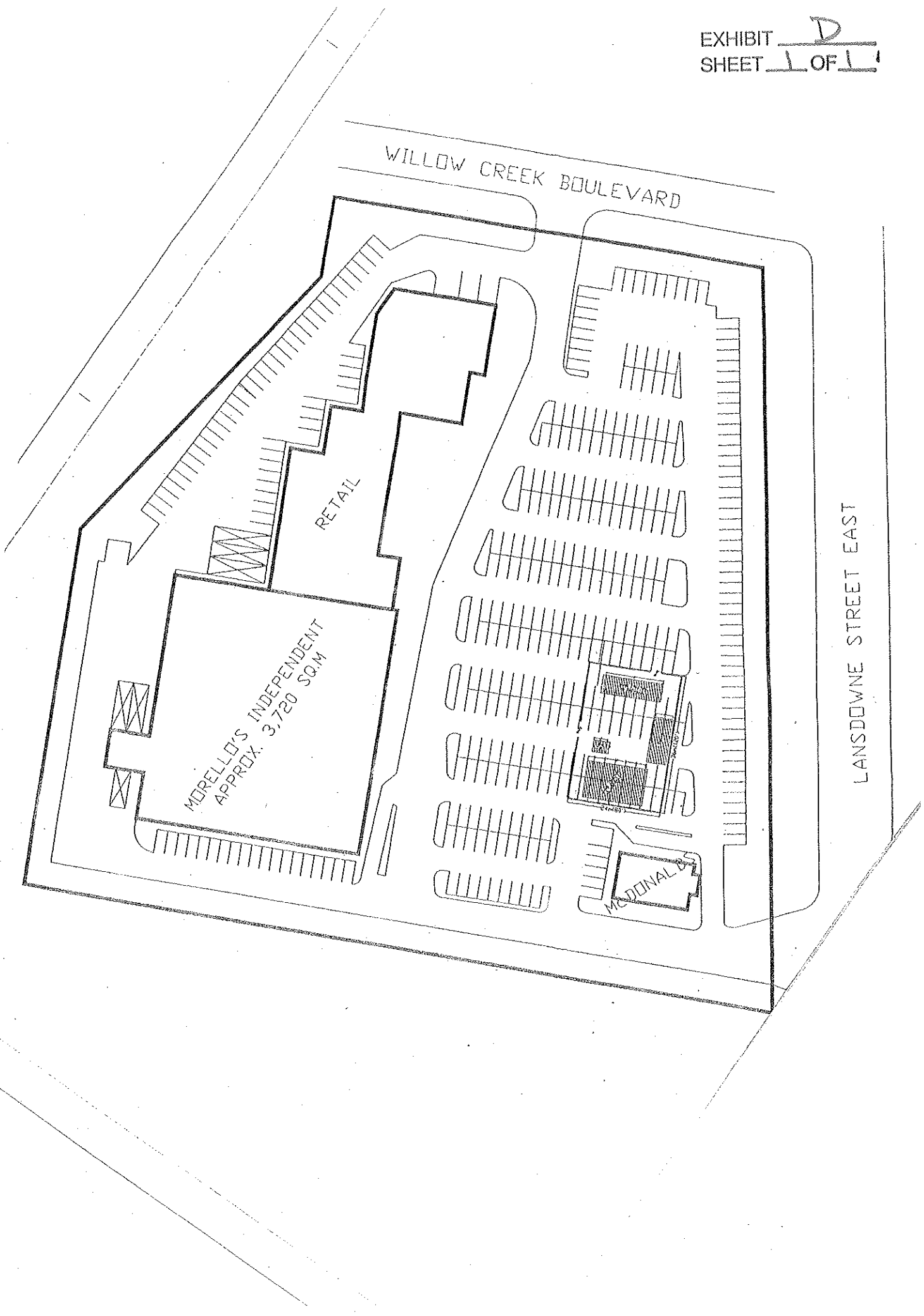
WILLOW CREEK BOULEVARD

LANSDDWNE STREET EAST

RETAIL

MORELLO'S INDEPENDENT  
APPROX. 3,720 SQ.M

MEDICAL



KEY PLAN

N.T.S.

STORE 2831

661 Lansdowne St  
 Peterborough, Ontario



GARDEN CENTRE  
 + DETAILS

SITE STATISTICS

EXISTING LOT AREA	17,724	SQ. FT.	6,329	SQ. M.
NET AREA	17,724	SQ. FT.	6,329	SQ. M.
DEVELOPABLE AREA	17,724	SQ. FT.	6,329	SQ. M.
PAVING REQUIRED	800	SQ. FT.	0.29	SQ. M.
PAVING PERCENT	4.51	%		
COVERAGE	3,377	SQ. FT.	1,241	SQ. M.
	3,377	SQ. FT.	1,241	SQ. M.

NOTED ON FILE

TUNNER FLEISCHER



DATE: 11/11/03  
 DRAWN BY: JFC  
 DATE: 11/11/03

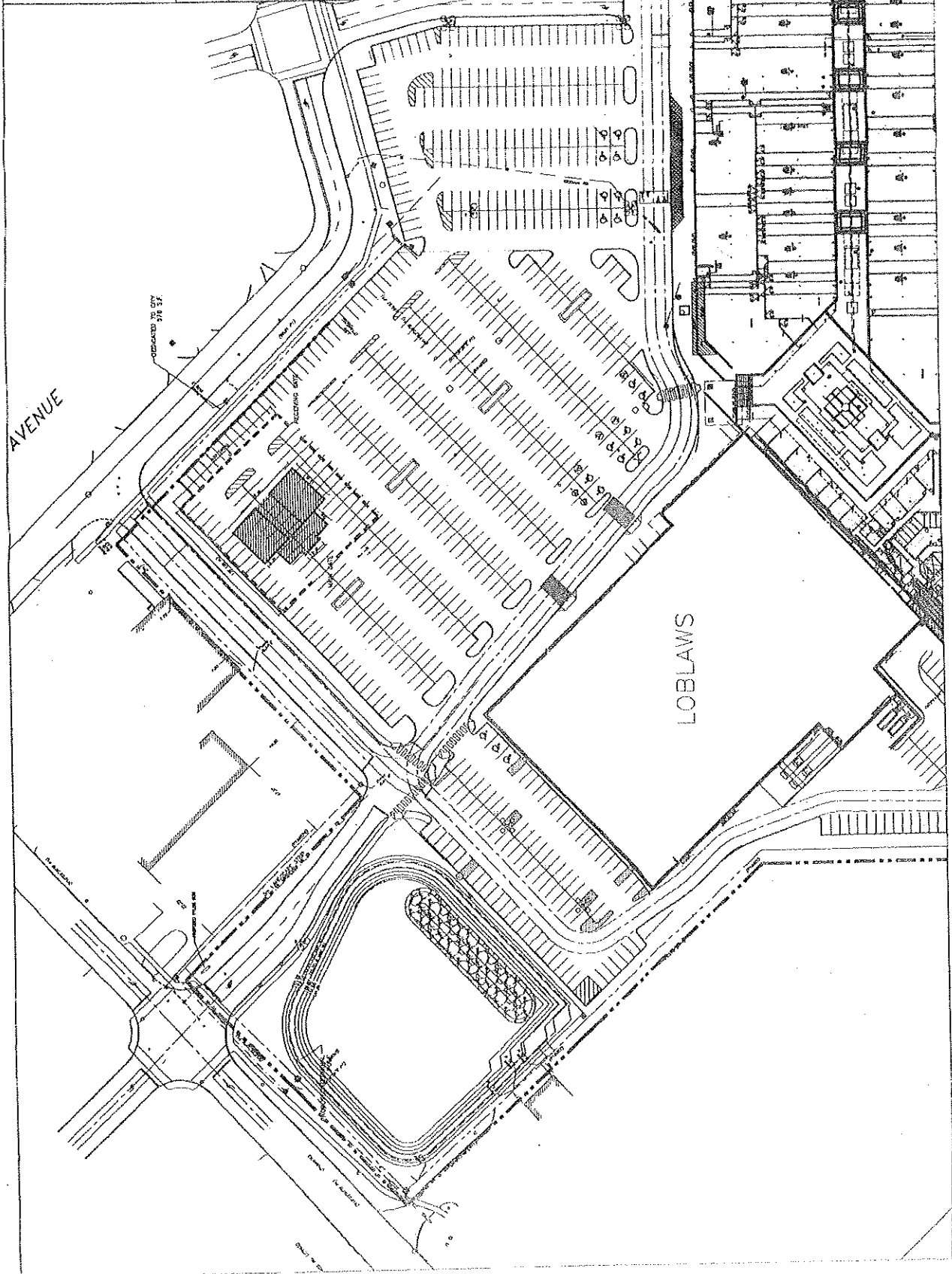
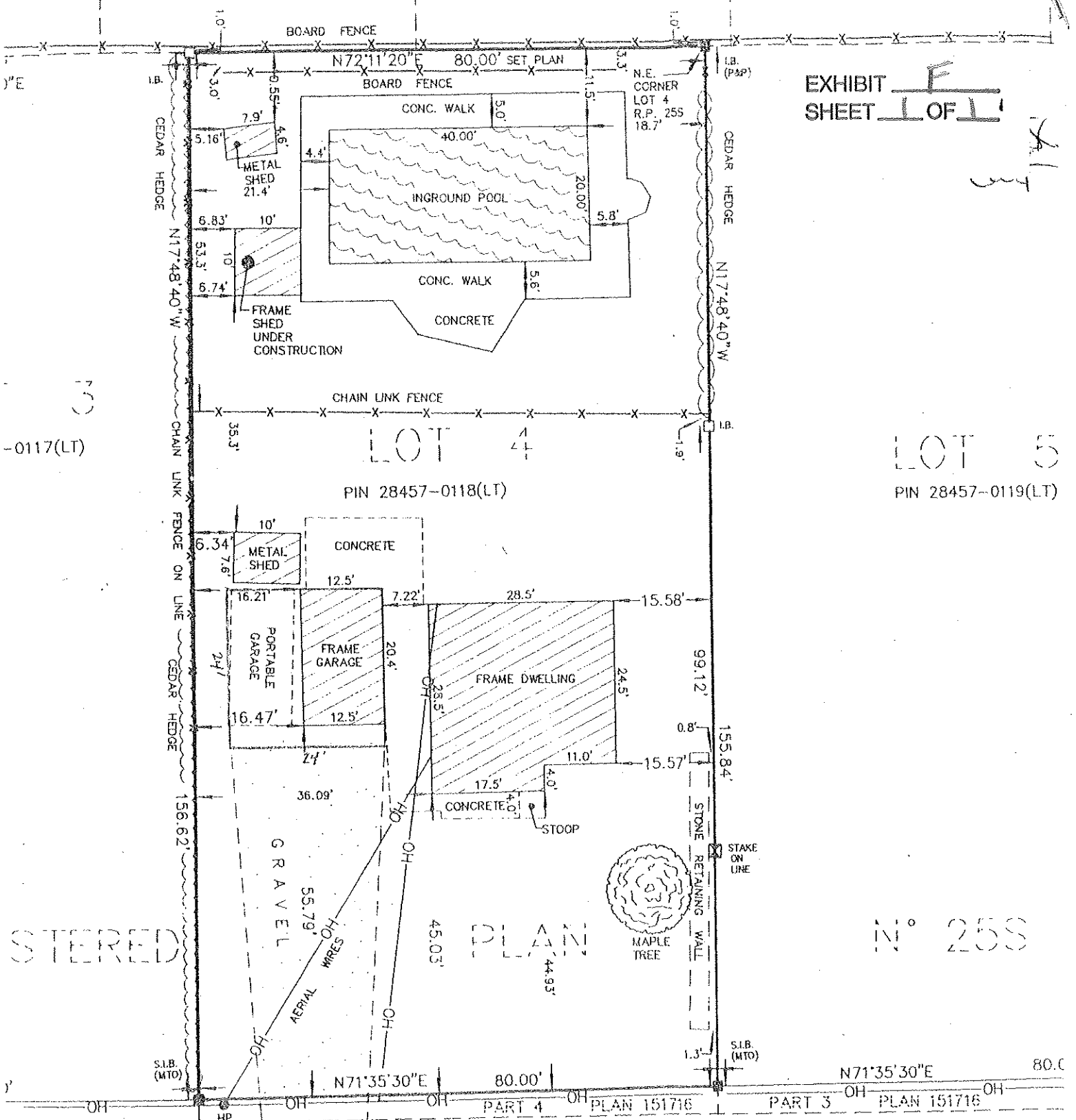


EXHIBIT F  
SHEET 1 OF 1



LOT 5  
PIN 28457-0119(LT)

N° 25S

7' DEDICATION BY PLAN N° 25

PLAN N° 1551

LANSDOWNE

STREET

THE KINGS HIGHWAY N° 7B

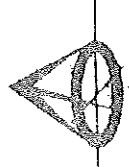


LOOK  
PART 1 -- 45R--7453  
P.I.N. 28113 - 0007

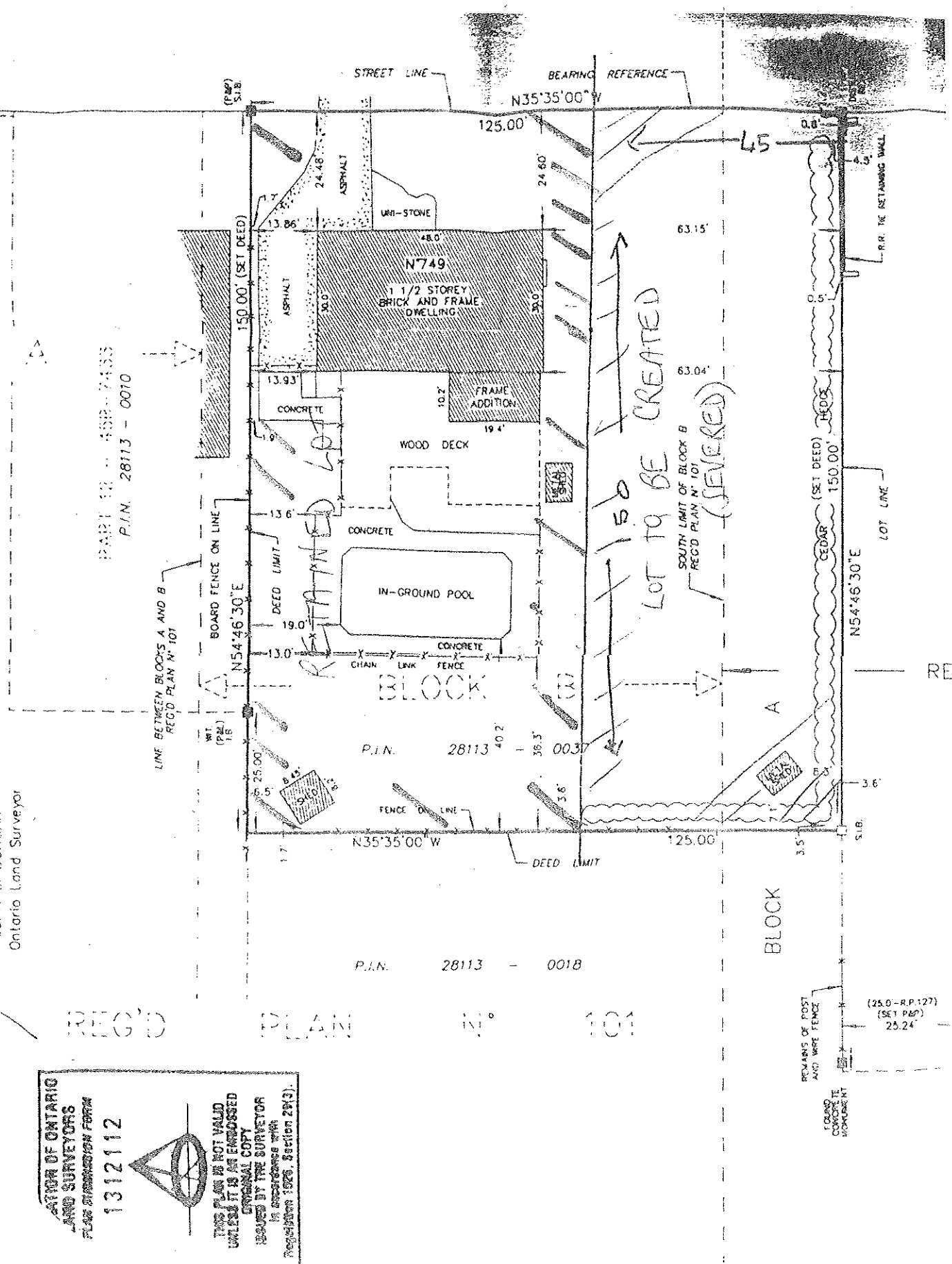
COMPLETED ON JULY 17th, 2000  
*[Signature]*  
JOHN S. DUNCAN  
Ontario Land Surveyor

PROVIDED PLAN N° 101

MIN. ONTARIO  
LAND SURVEYORS  
PLAN SUBMISSION FORM  
1312112



THIS PLAN IS NOT VALID  
UNLESS IT IS AN ENCLOSED  
ORIGINAL COPY  
ISSUED BY THE SURVEYOR  
in accordance with  
Regulation 152B, Section 29(3).



RESIDENTIAL

MCDONNELL STREET

RESIDENTIAL

BETHUNE STREET

RUSSELL'S  
AUTO SERVICE

